



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
330 C Street, S.W.
Washington, D.C. 20201

FOIA 19-F-0108

May 2, 2019

Sent via email: mailto:65521-37819434@requests.muckrock.com

Dear Mr. Gottinger:

This is a final response to your enclosed Freedom of Information Act (FOIA) request 19-F-0108 to the Administration for Children and Families (ACF). You initially requested "Any and all logs, reports, and/or records relating to any injuries or illness of persons held in at the Encampment at the Tornillo Port of Entry from the time period of January 1, 2018 to December 12, 2018." On March 20, 2018 we agreed that ACF would provide you all available reports for the 1st and 15th of every month (or closest day possible). We are providing 16 reports from June-December 2018, which covers the period of time Tornillo was in operation.

Agency employees have conducted a thorough search of their files and located the enclosed 34 pages of records. On these records, 30 pages are being released in full and four pages are being released in part pursuant to FOIA Exemptions (b)(5) and (b)(6) of the FOIA 5 U.S.C. § 552(b)(56).

Exemption 5 protects inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. The exemption protects agency deliberations, both internal and with agency contractors and consultants, attorney-client privileged records and attorney work product. In this case, the withheld information includes topics of pre-decisional discussions regarding shelter operations.

Exemption 6, permits the withholding of information and records about individuals in "personnel and medical files and similar files, the disclosure of which would constitute a clearly unwanted invasion of personal privacy." The definition of "similar files" has historically been broadly interpreted to include a wide variety of files, and the United States Supreme Court has held that Congress intended the term "similar files" to be interpreted broadly, rather than narrowly. On the attached records, names of shelter staff have been redacted. I have analyzed these records and find they meet the threshold requirement of this exemption. Additionally, I have reviewed and weighed the public interest in disclosure of this information against the privacy interest in nondisclosure, and found that the privacy interest outweighs the public's interest in disclosure.

Feel free to contact me with any questions or concerns. You may also contact the HHS/ACF FOIA Public Liaison for assistance at:

Kenneth Wolfe, FOIA Public Liaison
HHS FOIA Public Liaison
U.S. Department of Health and Human Services
ACF, Office of Communications, 4002A
330 C. Street S. W.
Washington, DC 20201

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve dispute between FOIA requesters and Federal agencies.

Paul Gottinger
19-F-0108

The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road – OGIS
College Park, MD 20740-6001

Telephone: 202-741-5770
Toll-Free: 1-877-684-6448
E-mail: ogis@nara.gov
Fax: 202-741-5769

You have the right to appeal this determination. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision.

Your appeal must be mailed within 90 days from the date of receipt of this letter, to:

Kim Hutchinson, Deputy Agency Chief FOIA Officer
U.S. Department of Health and Human Services
Office of the Assistant Secretary for Public Affairs
200 Independence Avenue, S.W., Room 729H
Washington, DC 20201

Please clearly mark both the envelope and your letter "Freedom of Information Act Appeal."

Sincerely yours,

Celeste Smith
Director, Freedom of Information Office
Office of Communications
Administration for Children and Families
Department of Health and Human Services
Washington, D.C.